

By: Senator(s) Farris

To: Education

SENATE BILL NO. 2849

1 AN ACT TO AMEND SECTION 37-9-59, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY SCHOOL SUPERINTENDENTS' AUTHORITY TO DISMISS OR SUSPEND
3 LICENSED EMPLOYEES WHO ARE CONVICTED OF A FELONY WHILE EMPLOYED BY
4 A SCHOOL DISTRICT; TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF
5 1972, TO AUTHORIZE SCHOOL BOARDS TO REFUSE EMPLOYMENT TO
6 APPLICANTS WHO HAVE BEEN CONVICTED OF A FELONY; AND FOR RELATED
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 37-9-59, Mississippi Code of 1972, is
10 amended as follows:

11 37-9-59. For incompetence, neglect of duty, immoral conduct,
12 intemperance, brutal treatment of a pupil, conviction of or entry
13 of a guilty plea or a plea of nolo contendere to a felony
14 committed or alleged to have been committed during the time the
15 offender or alleged offender is an employee of the school
16 district, or other good cause, the superintendent of schools may
17 dismiss or suspend any licensed employee in any school district.
18 Before being so dismissed or suspended, any licensed employee
19 shall be notified of the charges against him and he shall be
20 advised that he is entitled to a public hearing upon the charges.

21 In the event the continued presence of the employee on school
22 premises poses a potential threat or danger to the health, safety
23 or general welfare of the students, or, in the discretion of the
24 superintendent, may interfere with or cause a disruption of normal
25 school operations, the superintendent may immediately release the
26 employee of all duties pending a hearing if one is requested by
27 the employee. In the event a licensed employee is arrested,
28 indicted or otherwise charged with a felony by a recognized law
29 enforcement official, the continued presence of the licensed

30 employee on school premises shall be deemed to constitute a
31 disruption of normal school operations. The school board, upon a
32 request for a hearing by the person so suspended or removed shall
33 set a date, time and place for such hearing which shall be not
34 sooner than five (5) days nor later than thirty (30) days from the
35 date of the request. The procedure for such hearing shall be as
36 prescribed for hearings before the board or hearing officer in
37 Section 37-9-111. From the decision made at the hearing, any
38 licensed employee shall be allowed an appeal to the chancery court
39 in the same manner as appeals are authorized in Section 37-9-113.

40 Any party aggrieved by action of the chancery court may appeal to
41 the Mississippi Supreme Court as provided by law. In the event
42 that a licensed employee is immediately relieved of duties pending
43 a hearing, as provided in this section, the employee shall be
44 entitled to compensation for a period up to and including the date
45 that the initial hearing is set by the school board, in the event
46 that there is a request for such a hearing by the employee. In
47 the event that an employee does not request a hearing within five
48 (5) calendar days of the date of the notice of discharge or
49 suspension, it shall constitute a waiver of all rights by the
50 employee, and such discharge or suspension shall be effective on
51 the date set out in the notice to the employee.

52 The school board of every school district in this state
53 is * * * prohibited from denying employment or reemployment to any
54 person as a superintendent, principal or licensed employee, as
55 defined in Section 37-19-1, or as a non-instructional personnel,
56 as defined in Section 37-9-1, for the single reason that any
57 eligible child of such person does not attend the school system in
58 which such superintendent, principal, licensed employee or
59 non-instructional personnel is employed.

60 SECTION 2. Section 37-9-17, Mississippi Code of 1972, is
61 amended as follows:

62 37-9-17. On or before April 1 of each year, the principal of
63 each school shall recommend to the superintendent of the school
64 district the licensed employees or noninstructional employees to
65 be employed for the school involved except those licensed
66 employees or noninstructional employees who have been previously
67 employed and who have a contract valid for the ensuing scholastic

68 year. If such recommendations meet with the approval of the
69 superintendent, the superintendent shall recommend the employment
70 of such licensed employees or noninstructional employees to the
71 school board, and, unless good reason to the contrary exists, the
72 board shall elect the employees so recommended. The school board,
73 in its discretion, may decline to employ any person as a licensed
74 employee or noninstructional employee if the board has knowledge
75 that the person has been convicted of or entered a guilty plea or
76 plea of nolo contendere to a felony. If, for any reason, the
77 school board shall decline to elect any employee so recommended,
78 additional recommendations for the places to be filled shall be
79 made by the principal to the superintendent and then by the
80 superintendent to the school board as provided above. The school
81 board of any school district shall be authorized to designate a
82 personnel supervisor or another principal employed by the school
83 district to recommend to the superintendent licensed employees;
84 however, this authorization shall be restricted to no more than
85 two (2) positions for each employment period for each school in
86 the school district. The school board of any school district
87 shall be authorized to designate a personnel supervisor or another
88 principal employed by the school district to accept the
89 recommendations of principals or their designees for licensed
90 employees and to transmit approved recommendations to the board;
91 however, this authorization shall be restricted to no more than
92 two (2) positions for each employment period for each school in
93 the school district.

94 When the licensed employees have been elected as provided in
95 the preceding paragraph, the superintendent of the district shall
96 enter into a contract with such persons in the manner provided in
97 this chapter.

98 If, at the commencement of the scholastic year, any licensed
99 employee shall present to the superintendent a license of a higher
100 grade than that specified in such individual's contract, such
101 individual may be paid, if funds are available from minimum

102 education program funds of the district, or from district
103 funds, * * * from such funds the amount to which such higher grade
104 license would have entitled the individual, had the license been
105 held at the time the contract was executed.

106 SECTION 3. This act shall take effect and be in force from
107 and after its passage.